



City of Seattle

Seattle Police Department

March 15, 2013

Councilmember Mike O'Brien
Seattle City Council
600 4th Avenue, 2nd Floor
PO Box 34025
Seattle, WA 98124-4025

Dear Councilmember O'Brien:

On Monday, March 18, you are scheduled to vote on C.B. 117730, requiring the adoption, by ordinance, of protocols for the use of surveillance systems by the City of Seattle.

These protocols require that City departments name specific locations of surveillance equipment, how and when the department will use such equipment, how the equipment will be regulated to protect privacy, and a description of the nature and extent of public outreach conducted in each community in which the department intends to use the surveillance equipment.

While many of these requirements may be appropriate for surveillance systems to monitor the public at large, applying them to the surveillance that the Police Department does when it is conducting a legal criminal investigation, brings about potentially serious unintended consequences. Please consider amending this legislation so that it exempts criminal investigations from the scope of items that must be approved by the City Council. We suggest the following language:

SMC 14.18.40 Acquisition and Use of Surveillance Equipment Related to Law Enforcement Investigations

Notwithstanding the provisions of this Chapter, City departments may acquire or use surveillance equipment that will be installed or used on a temporary basis for the purpose of a criminal investigation, or pursuant to a lawfully issued search warrant, or under exigent circumstances as defined in case law. This exemption from the provisions of this ordinance does not apply to surveillance cameras mounted on drones or other unmanned aircraft.

While we understand why the Council and the public might want the Seattle Police Department to obtain search warrants whenever we do criminal surveillance, the results of this policy present legal impediments to our ability to conduct criminal investigations.

We have been advised by the City Law Department and a King County Prosecutor that courts will not be inclined to grant warrants when they are not legally required. Should this legislation pass as it currently reads, we may not be able to conduct legal surveillance. For example, under this legislation, the surveillance of a house that may contain a meth lab will require a warrant because the house is in public view; however, the Court might not grant a warrant in this case because surveillance is already allowed. We would have no way of proceeding with our investigation.



Seattle Police Department, 610 Fifth Avenue, PO Box 34986, Seattle, WA 98124-4986

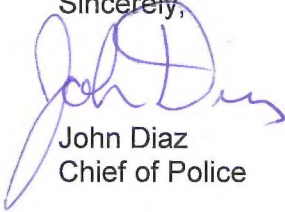
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We appreciate and agree with the Council's goals of transparency concerning public surveillance systems and wish to work with you on that issue. However, we believe that a public discussion on criminal surveillance activities may detract from the more important discussion of establishing policy on public surveillance systems.

We support the legislation – with the above amendment – and commit to having conversations with the Council and community about our public surveillance activities. We respectfully request your consideration of the amendment we have proposed above. Thank you.

Sincerely,

A handwritten signature in blue ink, appearing to read "John Diaz", is written over the printed name and title.

John Diaz
Chief of Police